

**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY**

Writ Appeal No.964 of 2005

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Between:

Bharat Dynamics Limited, Kanchanbagh,
Rep by its Chairman & Managing Director,
Hyderabad and others.

... Appellants

AND

R.Muthavali

...Respondent

::JUDGMENT::

Counsel for the Appellants : Ms.V.Uma Devi for
Sri K.Srinivasa Murthy

Counsel for Respondent : Sri S.Sharat Kumar

Dated 27/6/2006

Per Sri G.S.Singhvi, CJ

This appeal is directed against order dated 24-1-2005 passed by the learned Single Judge in Writ Petition No.19451 of 1999 – **R. Muthavali v. Bharat Dynamics Ltd., Kanchanbagh and others** whereby he quashed the regularization of writ petitioner's (respondent herein) service as Helper and directed the non-petitioners (appellants herein) to pass fresh order after giving notice and opportunity of hearing to the petitioner and by taking into consideration the relevant material.

The respondent was engaged in the service of appellant No.1 as a casual employee with effect from 1-9-1989. He was posted in Civil Engineering Department. Initially, he was paid wages @ Rs.22/- per day. With effect from 1-3-1992, he was paid wages @ Rs.56/- per day. Vide Proceedings No.BDL/ 6073 /R-10/98 dated 13-8-1998, the service of the respondent was regularized on the post of Helper. He challenged the same in Writ Petition No.19451 of 1999 by contending that this action of the employer amounts to indirect rejection of his claim for regularization of service as Lineman. He pleaded that even though he had been engaged as casual labour, the employer had been taking the work of Lineman from him and, as such, he is entitled to be regularised in service as Lineman. In support of his claim, the respondent relied on the scheme framed by the employer at the time of acquisition of land and pleaded that in terms of para 12.3 of the scheme, he was entitled to be regularized as Lineman.

In the counter filed on behalf of the appellants it was pleaded that

the writ petitioner had not been appointed as Lineman and no illegality was committed by regularizing him on the post of Helper. It was further pleaded that the writ petitioner does not possess the qualifications prescribed for the post of Lineman i.e. I.T.I Certificate in the concerned discipline and, therefore, he is not entitled to be regularized on that post.

After taking note of the rival pleadings and documents produced on the record of the writ petition, the learned Single Judge quashed the regularization of the respondent's service on the post of Helper and directed the employer to reconsider his case and pass appropriate order after giving notice and opportunity of hearing to him.

Smt.Uma Devi argued that the order under challenge is liable to be declared as vitiated by an error of law because while directing the appellants to consider the case of respondent No.1 for appointment as Lineman, the learned Single Judge overlooked the fact that he was not engaged as a Lineman and he does not even possess qualifications prescribed for that post. Learned counsel further argued that the exercise undertaken by the appellants for regularizing the service of the respondent did not involve adjudication of any law and, therefore, it was not necessary to hear him before regularizing his service as Helper.

Sri S. Sharat Kumar supported the order of the learned Single Judge and argued that the respondent is entitled to be regularized as Lineman because he has been regularly doing the duties of that post. Learned counsel referred to the documents filed with the writ petition to show that even though the respondent was engaged as casual labour, the employer had been taking the work of Lineman from him and argued that he cannot be denied the benefit of

regularization of service on the post of Lineman.

We have thoughtfully considered the respective arguments and carefully perused the record. In our opinion, even though the view taken by the learned Single Judge on the applicability of the rules of natural justice to the proceedings relating to regularization of the services of respondent does not appear to be legally tenable because such proceedings do not involve adjudication of a lis, but we do not find any valid ground to interfere with the direction given to the appellants to pass fresh order. While disposing of the writ petition filed by the respondents, the learned Single Judge has not recorded any finding on the respondent's right to be regularized on the post of Lineman. Therefore, the direction given by the learned Single Judge to the appellants to reconsider the respondent's case cannot be construed as a mandate for regularisation of the latter's service as Lineman. What is implicit in the direction of the learned Single Judge is that the employer (appellants herein) should reconsider the respondent's case and pass appropriate order. This cannot be construed as a mandate of the Court for regularizing the respondent's service on the post of Lineman or to designate him as such or pay him salary in the pay scale prescribed for that post.

For the reasons stated above, the appeal is dismissed. However, we deem it proper to clarify that the direction given by the learned Single Judge should not be treated as a mandate for designating the writ petitioner (respondent herein) as Lineman and the competent authority shall be free to consider the record, hear him and pass appropriate order.

G.S.SINGHVI, CJ

G.V.SEETHAPATHY, J

June 27, 2006

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